



CRIMINAL PUNISHMENT CODE TASK FORCE Scoresheets Subcommittee Minutes

February 7, 2020 at 3PM

Conference Call

I. Members Present:

The Honorable Donna McIntosh (Chair)

The Honorable Larry Eger

Mr. Kenneth Steely

Senator Jason Pizzo

Professor Michael Morley

II. Scoresheets Subcommittee

The subcommittee discussed the following resolutions:

Proposed Resolution #6 – “Resolved that certain offenses have been assigned offense levels that are disproportionately harsh, and should be reassigned to lower offense levels that more accurately reflect the gravity of the offenses and the harm they pose.”

Example #1: Fla. Stat. § 896.104(4)(a)3, structuring transactions to evade reporting requirements for over \$100,000, should be reduced from Offense Level 9 to Offense Level 7 since it is a non-violent, reporting-based offense.

Example #2: Fla. Stat. § 456.065(2) to § 484.053, involving practicing various professions without a license in the absence of aggravating circumstances, should be reduced from Offense Level 7 to Offense Level 5.

Proposed Resolution #7 – “Resolved that Offense Level rankings should be consistent with the legislature’s designation of the degree of an offense:

- i. Each third-degree offense should be assigned to an Offense Level between 1-5

- ii. Each second-degree offense should be assigned to an Offense Level between 6-7
- iii. Each first-degree offense should be assigned to an Offense Level between 8-9
- iv. Each “PBL” or “Life” offense should be assigned an Offense Level between 9-10”

Proposed Resolution #8 – “Resolved that offenses in which elements involve comparable amounts of money should be assigned to the same offense level.”

Example: Fla. Stat. § 409.92(2)(b)1.c, Medicaid provider fraud, \$50,000 or more, should be reduced from Offense Level 9 to Offense Level 8, since most other offenses in Offense Level 9 involve financial harm exceeding \$100,000.

Proposed Resolution #9 – “Resolved that the Offense Level for certain offenses is too low to accurately reflect their magnitude and severity.”

Example #1 - Fla. Stat. § 790.166(2), offenses relating to weapons of mass destruction, should be changed from Offense Level 9 to Offense Level 10 since it involves WMDs.

Example #2 – Fla. Stat. § 784.021(1)(a), (1)(b), aggravated assault with deadly weapon or to commit a felony should be changed from Offense Level 6 to Offense Level 7 since it is a serious violent crime that could have irreparable consequences.

Proposed Resolution #10 – “Resolved that offenses involving certain aggravating factors should be assigned a higher offense level than the ‘base’ offense that does not involve such aggravating factors.”

Example #1 – Fla. Stat. § 794.011(4)(b), sexual battery (rape) if the victim and offender are both over 18, has been assigned Offense Level 9. But Fla. Stat. § 794.011(8)(b), sexual battery (rape) if the victim is between 12 and 18, and the defendant is a family member, has also been assigned Offense Level 9, despite the presence of those two additional aggravating factors. This should be ranked as a higher-level offense than the underlying “base” offense.

Example #2 – Fla. Stat. § 810.02(3)(b), burglary of an unoccupied dwelling, has been assigned Offense Level 7. But Fla. Stat. § 810.02(3)(a), burglary of an occupied dwelling, has been also been

assigned Offense Level 7, even though that appears to be a more serious offense involving an aggravating circumstance. This should be ranked as a higher-level offense.

III. Discussion

The subcommittee agreed to walk through the Offense Severity Ranking Sheet to suggest modifications at future meetings and for presentation to the Task Force at-large. In conjunction with a review of the Offense Severity Ranking Sheet, the subcommittee agreed to combine resolutions 6, 9, and 10 for further discussion at the following meeting.

Mr. Eger petitioned the subcommittee to discuss a guideline system.

The subcommittee discussed the importance of an automated digital scoresheet with the capability to provide authority and oversight to the party completing it as an excellent idea. The scoresheet as it exists presently is purely a digitization of what already exists and does little to increase the accuracy in the courtroom, but it does do the math correctly. This recommendation is addressed in proposed resolution #11.

IV. Subcommittee Working Objectives

The subcommittee's working objectives are as follows:

1. Review and make recommendations regarding offense severity rankings
 - a. Including uncharted
2. Review and make recommendations for sentencing points under the CPC.
 - a. What is the number of points necessary to trigger state sanctions?
 - b. Legal status
 - c. Review sentencing range- lowest and highest permissible.
 - d. Review points for primary, additional, and prior offenses
 - e. Sentencing scoresheet enhancements- bring to attention for enhancements subcommittee (enhancement of a crime already enhanced because the nature of the offense)
3. Mitigating Factors

V. Adjourn

4:50 PM